

MARTHA G. BRONITSKY, SBN 127583  
CHAPTER 13 STANDING TRUSTEE  
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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re: Chapter 13  
ANNA MARIA BORQUEZ CASE NO. 10-46902 MEH 13  
Debtor, **COMPLAINT TO RECOVER FUNDS OVERPAID  
THROUGH CHAPTER 13 PLAN PURSUANT TO 11  
U.S.C. §542**

\_\_\_\_\_  
**MARTHA G. BRONITSKY, CHAPTER 13 STANDING TRUSTEE**

Plaintiff  
vs.

**LVNV FUNDING LLC**

Defendant  
\_\_\_\_\_

COMES NOW, MARTHA G. BRONITSKY, Chapter 13 Standing Trustee,  
hereafter "Plaintiff", and files this Complaint to Recover Funds  
Overpaid Through Chapter 13 Plan against LVNV Funding LLC in the  
amount of \$2,059.96.

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2. The Plaintiff is Martha G. Bronitsky, Standing Chapter 13 Trustee for the Oakland Division of the Northern District of California, United States Bankruptcy Court.
3. Defendant is a creditor in the Chapter 13 Bankruptcy of Anna Maria Borquez ("Debtor") filed in the Oakland Division of the Northern District of California, United States Bankruptcy Court, served through its Officer or Managing Agent.

## FACTS

5. The Chapter 13 Plan ("plan") was confirmed on October 27, 2010.  
(Doc. #24).
6. American General Finance ("AGF") was listed on schedule F for credit card purchases in the amount of \$1,870 and not provided for in the plan. (Doc. #1).
7. On October 6, 2010, AGF filed a secured claim for \$1,886.58 to which the Debtor did not object. (Claim #16).
8. On September 4, 2013, AGF filed a notice of transfer of claim to Defendant, LVNV Funding LLC. (Doc. #34).
9. The Plaintiff distributed \$2,059.96 (principal and interest) to the Defendant in error.
10. The funds distributed to the Defendant constitute property of the bankruptcy estate pursuant to 11 U.S.C. §541.

1 11.Plaintiff, as Chapter 13 Trustee, has the right and the duty to  
2 recover property of the estate held by a creditor, as this  
3 assists the Debtor in the performance of her plan. 11 U.S.C.  
4 §1302(b)(1)(4).

5 12.The Plaintiff, as Chapter 13 Trustee, is accountable to the  
6 estate for all property received. 11 U.S.C. §704(a)(2).

7 13.The Defendant is required to turnover the funds to the Trustee  
8 unless of inconsequential value to the estate. 11 U.S.C. §542.

9 14.The funds are of consequential value to the estate because they  
10 are needed to pay other allowed claims that must be paid in full  
11 through the Chapter 13 Plan.

12 **COUNT 1**

13 15.The allegations in the previous paragraphs are hereby restated.

14 16.The Plaintiff seeks turnover of \$2,059.96 distributed to the  
15 Defendant pursuant to 11 U.S.C. §542.

16 17.The Plaintiff is entitled to judgment in the amount of \$2,059.96  
17 against the Defendant.

18 **PRAYER FOR RELIEF**

19 Wherefore, the Plaintiff prays that the Defendant be served with  
20 citation, and that the Plaintiff recover judgment as set forth above  
21 and any other relief the court deems just and proper.

22 RESPECTFULLY SUBMITTED

23  
24 May 15, 2014  
DATE

/s/Martha G. Bronitsky 5909  
Martha G. Bronitsky, Esq.  
Chapter 13 Standing Trustee